

**DEPARTMENT OF EDUCATION
SPECIAL EDUCATION PROGRAMS
South Dakota School for the Deaf
Accountability Review - Focus Monitoring Report 2008-2009**

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Dates of On Site Visit: February 17, 2009

Date of Report: February 23, 2009

3 month update due: May 23, 2009 Date Received:

6 month update due: August 23, 2009 Date Received:

9 month update due: November 23, 2009 Date Received:

Closed:

Program monitoring and evaluation.

In conjunction with its general supervisory responsibility under the Individuals with Disabilities Education Act, Part B, Special Education Programs (SEP) of the Office of Educational Services and Support shall monitor agencies, institutions, and organizations responsible for carrying out special education programs in the state, including any obligations imposed on those agencies, institutions, and organizations. The department shall ensure:

- (1) That the requirements of this article are carried out;
- (2) That each educational program for children with disabilities administered within the state, including each program administered by any other state or local agency, but not including elementary schools and secondary schools for Native American children operated or funded by the Secretary of the Interior:
 - (a) Is under the general supervision of the persons responsible for educational programs for children with disabilities in the department; and
 - (b) Meets the educational standards of the state education agency, including the requirements of this article; and
- (3) In carrying out this article with respect to homeless children, the requirements of the McKinney-Vento Homeless Assistance Act, as amended to January 1, 2007, are met. (Reference- ARSD 24:05:20:18.)

State monitoring--Quantifiable indicators and priority areas.

The department shall monitor school districts using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:

- (1) Provision of Free Appropriate Public Education (FAPE) in the least restrictive environment;
 - (2) Department exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services as defined in this article and article 24:14; and
 - (3) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification. (Reference-ARSD 24:05:20:18:02.)
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State enforcement -- Determinations.

On an annual basis, based on local district performance data, information obtained through monitoring visits, and other information available, the department shall determine whether each school district meets the requirements and purposes of Part B of the IDEA...

Based upon the information obtained through monitoring visits, and any other public information made available, Special Education Programs of the Office of Educational Services and Support determines if the agency, institution, or organization responsible for carrying out special education programs in the state:

- Meets the requirements and purposes of Part B of the Act;
- Needs assistance in implementing the requirements of Part B of the Act'
- Needs intervention in implementing the requirements of Part B of the Act; or
- Needs substantial intervention in implementing the requirements of Part B of the Act. (Reference-ARSD 24:05:20:23.04.)

Deficiency correction procedures.

The department shall require local education agencies to correct deficiencies in program operations that are identified through monitoring as soon as possible, but not later than one year from written identification of the deficiency. The department shall order agencies to take corrective actions and to submit a plan for achieving and documenting full compliance. (Reference-ARSD 24:05:20:20.)

1. FAPE IN THE LEAST RESTRICTIVE ENVIRONMENT

State Performance Plan - Indicator 7: Percent of preschool children with IEPs who demonstrate improved:

- A. Positive social-emotional skills;
- B. Acquisition and use of knowledge and skills; and
- C. Use of appropriate behaviors to meet their needs.

Finding:

The special education teacher was provided technical assistance the day of the on-site review. In addition, documents were provided to reference when entering a program note for the BDI. The teacher will send a copy of the program notes to SEP.

3. GENERAL SUPERVISION

Present levels: From November 15, 2005

State Performance Plan - Indicator 13: Percent of youth aged 16 and above with an IEP that includes coordinated, measurable, annual IEP goals and transition services that will reasonably enable the student to meet the post-secondary goals.

Out of Compliance

ARSD 24:05:27:13.02 Transition services

Transition services are a set of coordinated activities for the student designed within an outcome-oriented process, which promotes movement from school to post school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living or community participation. The coordinated set of activities shall be based on the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, related services, community experiences, the development of employment and other postschool adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.

Three transition age students files were reviewed. Through file reviews, the monitoring team determined none of the IEPs addressed transition strengths/needs in the present levels of

performance. The students IEPs did not meet requirements for having a coordinated set of activities or annual goals. Examples of transition services on one student's IEP were a statement for employment, "Enrolled in an employment class second semester" and an adult services statement, "Apply for VR." The IEP team had not addressed the independent living, community participation, or post-secondary services. The coordinated set of activities statements on the other two student IEPs were vague; for example, "Employment, Complete VR application; Independent Living, Explore AT; Community Participation, On football and track team; Adult services, Continue peer monitoring; and, Post Secondary, take ACT/SAT tests".

In addition, the monitoring team found no person(s) identified who would be responsible for transition services and no initiation/duration dates were addressed in the three transition age students IEPs.

Follow-up: February 17, 2009

Findings: Five transition age student files were reviewed. Through file reviews the monitoring team determined the IEPs did not address transition strengths/needs in the present levels of academic achievement and functional performance. Measurable post secondary goals are not written in measurable terms; for example, "I want to become a cook," "I plan to be a doctor or work in a museum." The course of study for students was not complete. There were no electives listed and therefore does not meet the requirements. Specific graduation requirements are not addressed in all files one year prior to graduation. Transition services were not addressed in all areas. Transition services were not a coordinated set of activities.

Corrective Action:

Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
Activity/Procedure: Technical Assistance for the district will be provided to special education staff on transition procedure for students on an IEP. Data Collection: The district will submit to SEP the date, time and the recipients of the technical assistance.	September 1, 2009	State	

Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
Activity/Procedure: All IEPs written for students of transition age will reflect a coordinated set of activities, student strengths and interests to prepare them for post school activities. Data Collection: The district special education staff and director will review all transition IEPs written during the progress reporting	September 1 and ongoing	SDSD staff	

period and submit an IEP from each teacher to verify content on transition. Or If there is not a student requiring transition planning a sample IEP will be developed by the special education teacher and submitted to SEP.			
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4. GENERAL SUPERVISION

Present levels:

State Performance Plan - Indicator 16: Percent of signed written complaints with reports issued that were resolved within 60-day timeline or a timeline extended for exceptional circumstances with respect to a particular complaint.

ARSD 24:05:15:02 Complaint. A complaint is a written signed statement by an individual or organization, including an individual or organization from another state, containing a statement that the department of education or a school district has violated a requirement of federal or state statutes, rules, or regulations that apply to a program and a statement of the facts on which the complaint is based. The complaint must allege a violation that occurred not more than one year before the date the complaint is received by the department.

Any issues or information that pertained to events prior to June 26, 2007 will not be addressed in this complaint. The issues that were addressed in this complaint are outlined below.

STATEMENT OF ISSUES:

1. With regard to Issue 1, ***Respondents have failed to provide a free appropriate public education (FAPE) that meets the unique needs of the students at SDSD as a result of its unilateral blanket decision not to provide ESY services***, there is a violation of Part B of IDEA and the regulations.

The SDSD failed to consider the unique needs of some of its students when a unilateral decision was made requiring LEAs to meet the ESY requirements of each student's FAPE. The ESY services that have been provided to some SDSD students are limited in regards to the type of services that are available to the LEA, do not meet the LRE requirements in accordance with some students' IEPs, and do not meet the Department of Education standards regarding LRE considerations in regard to the selection of appropriate educational placements.

2. With regard to Issue 2, ***SDSD's blanket refusal to provide ESY services fails to consider the special communication needs of children who are deaf or hard of hearing who attend or are seeking to attend SDSD***, there is a violation of Part B of IDEA and the regulations.

4. With regard to Issue 4, **The BOR and SDSD have violated the IEP development process required by IDEA by failing to provide services based on the students' unique individualized needs: a. ESY b. School-year Services**, there is a violation of Part B of IDEA and the regulations as they pertain to ESY services. There is not a violation of Part B of IDEA and the regulations as they pertain to school-year services.

6. In regard to Issue 6, **The BOR/SDSD have failed to afford parents of students attending or seeking to attend SDSD with procedural safeguards mandated by IDEA** there is a violation of Part B of IDEA and the regulations as they pertain to meeting the requirements of IDEA in regard to procedural safeguards

Follow-up: February 17, 2009

Findings: The South Dakota School for the Deaf is addressing ESY on the IEPs. They stated that determination of ESY services will be decided in April for students. No determinations have been made for location or type of services at this time.